

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION**

This document relates to:

Douglas W. Plank

2:12-md-02323-AB

PETITION TO ESTABLISH ATTORNEY'S LIEN

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Now comes the Petitioner James R. Acho for Cummings, McClorey, Davis & Acho, P.L.C. (“CMDA”) pursuant to *Bennett v. Weitz*, 220 Mich. App. 295, 297; 559 N.W.2d 354 (1996), and the executed “Contingency Fee Agreement” and states as follows:

1. The Petitioner is an attorney at law, and files this Petition to establish his and CMDA's lien for attorney fees as set forth hereinafter.

2. On February 6, 2017, CMDA was retained and employed by Douglas W. Plank, pursuant to a contingency fee agreement, to pursue a claim for injuries and damages against the National Football League associated with football-related concussions, head, and brain injuries.

3. Mr. Plank's contingency fee agreement contains the following terms: If no recovery is made, the client will not owe any legal fees or expenses. If CMDA obtains a settlement or judgment for the client, the client will pay to CMDA twenty percent (20%) of the net recovery after reimbursement of expenses.

4. From the date CMDA was authorized to proceed on behalf of Mr. Plank, the Petitioner and other CMDA attorneys have actively and diligently applied themselves to the

investigation, preparation, and pursuit of Mr. Plank's claims, and have taken all steps necessary to prosecute those claims, including, but not limited to, correspondence and communication with Mr. Plank on 9/16/2016, 10/4/2016, 10/31/2016, 11/21/2016, 4/11/2017, 4/12/2017, 7/12/2017, 7/29/2017, 8/1/2017, and 8/10/2017, preparation and review of Mr. Plank's factual and legal circumstances, obtaining and reviewing medical records, and facilitating treatment by a neurologist and neuropsychologist on multiple occasions, including October 5, 2016, October 11, 2016, October 21, 2016, October 25, 2016, and November 21, 2016. Further, counsel Acho has remained in consistent communication with Mr. Plank until present date.

5. Mr. Plank has recently discharged the Petitioner and CMDA as his attorneys in this matter at Mr. Acho's suggestion that perhaps another attorney could better represent him in the concussion claim.

6. The Petitioner and CMDA were not terminated by Mr. Plank for cause, and the termination was not due to any malfeasance or other improper action on the part of Petitioner and/or CMDA.

7. The Petitioner claims the right to have a lien for attorney's fees and expenses established and enforced upon any sums to be derived from any settlement or judgment obtained or to be obtained by Mr. Plank in this action.

WHEREFORE, the Petitioner requests:

- a. That his attorney's lien be determined;
- b. That the amount of the lien be established;
- c. That the Court order that the Petitioner be entitled to enforce his attorney's lien against the proceeds to be derived from any settlement or judgment in this action;

d. That Defendant or the Defendant's insurer be prohibited from paying to Mr. Plank any sums of money until said lien has been satisfied;

e. For such other and further relief as this Court deems just.

Respectfully Submitted,

/s/ James R. Acho
Cummings, McClorey, Davis & Acho, P.L.C.
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Michigan Bar No. (P-62175)

Dated: January 19, 2023

CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

/s/ James R. Acho
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Dated: January 19, 2023